

## Internal Revenue Service, Treasury

## § 1.62-1

as cash compensation. E must include that amount in gross income less any amounts determined under paragraph (e)(3)(ii) of this section.

(i) [Reserved]

(j) *Effective date*—(1) *General rule*—(i) *In general*. This section applies to any split-dollar life insurance arrangement (as defined in paragraph (b)(1) or (2) of this section) entered into after September 17, 2003.

(ii) *Determination of when an arrangement is entered into*. For purposes of paragraph (j) of this section, a split-dollar life insurance arrangement is entered into on the latest of the following dates:

(A) The date on which the life insurance contract under the arrangement is issued;

(B) The effective date of the life insurance contract under the arrangement;

(C) The date on which the first premium on the life insurance contract under the arrangement is paid;

(D) The date on which the parties to the arrangement enter into an agreement with regard to the policy; or

(E) The date on which the arrangement satisfies the definition of a split-dollar life insurance arrangement (as defined in paragraph (b)(1) or (2) of this section).

(2) *Modified arrangements treated as new arrangements*—(i) *In general*. For purposes of paragraph (j)(1) of this section, if an arrangement entered into on or before September 17, 2003 is materially modified after September 17, 2003, the arrangement is treated as a new arrangement entered into on the date of the modification.

(ii) *Non-material modifications*. The following is a non-exclusive list of changes that are not material modifications under paragraph (j)(2)(i) of this section (either alone or in conjunction with other changes listed in paragraphs (j)(2)(ii)(A) through (I) of this section)—

(A) A change solely in the mode of premium payment (for example, a change from monthly to quarterly premiums);

(B) A change solely in the beneficiary of the life insurance contract, unless the beneficiary is a party to the arrangement;

(C) A change solely in the interest rate payable under the life insurance contract on a policy loan;

(D) A change solely necessary to preserve the status of the life insurance contract under section 7702;

(E) A change solely to the ministerial provisions of the life insurance contract (for example, a change in the address to send payment);

(F) A change made solely under the terms of any agreement (other than the life insurance contract) that is a part of the split-dollar life insurance arrangement if the change is non-discretionary by the parties and is made pursuant to a binding commitment (whether set forth in the agreement or otherwise) in effect on or before September 17, 2003;

(G) A change solely in the owner of the life insurance contract as a result of a transaction to which section 381(a) applies and in which substantially all of the former owner's assets are transferred to the new owner of the policy;

(H) A change to the policy solely if such change is required by a court or a state insurance commissioner as a result of the insolvency of the insurance company that issued the policy; or

(I) A change solely in the insurance company that administers the policy as a result of an assumption reinsurance transaction between the issuing insurance company and the new insurance company to which the owner and the non-owner were not a party.

(iii) *Delegation to Commissioner*. The Commissioner, in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin, may provide additional guidance with respect to other modifications that are not material for purposes of paragraph (j)(2)(i) of this section. See § 601.601(d)(2)(ii) of this chapter.

[T.D. 9092, 68 FR 54344, Sept. 17, 2003; 68 FR 63735, Nov. 10, 2003]

### § 1.62-1 Adjusted gross income.

(a)–(b) [Reserved]

(c) *Deductions allowable in computing adjusted gross income*. The deductions specified in section 62(a) for purposes of computing adjusted gross income are—

(1) Deductions set forth in § 1.62-1T(c); and

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(2) Deductions allowable under part VI, subchapter B, chapter 1 of the Internal Revenue Code, (section 161 and following) that consist of expenses paid or incurred by the taxpayer in connection with the performance of services as an employee under a reimbursement or other expense allowance arrangement (as defined in § 1.62-2) with his or her employer. For the rules pertaining to expenses paid or incurred in taxable years beginning before January 1, 1989, see § 1.62-1T (c)(2) and (f) (as contained in 26 CFR part 1 (§§ 1.61 to 1.169) revised April 1, 1992).

(d)-(h) [Reserved]

(i) *Effective date.* Paragraph (c) of this section is effective for taxable years beginning on or after January 1, 1989.

[T.D. 8451, 57 FR 57668, Dec. 7, 1992; 57 FR 60568, Dec. 21, 1992]

### § 1.62-1T Adjusted gross income (temporary).

(a) *Basis for determining the amount of certain deductions.* The term “adjusted gross income” means the gross income computed under section 61 minus such of the deductions allowed by chapter 1 of the Code as are specified in section 62(a). Adjusted gross income is used as the basis for determining the following:

(1) The limitation on the amount of miscellaneous itemized deductions (under section 67).

(2) The limitation on the amount of the deduction for casualty losses (under section 165(h)(2)).

(3) The limitation on the amount of the deduction for charitable contributions (under section 170(b)(1)).

(4) The limitation on the amount of the deduction for medical and dental expenses (under section 213).

(5) The limitation on the amount of the deduction for qualified retirement contributions for active participants in certain pension plans (under section 219(g)), and

(6) The phase-out of the exemption from the disallowance of passive activity losses and credits (under section 469(i)(3)).

(b) *Double deduction not permitted.* Section 62 (a) merely specifies which of the deductions provided in chapter 1 of the Code shall be allowed in computing adjusted gross income. It does not create any new deductions. The fact that

a particular item may be described in more than one of the paragraphs under section 62(a) does not permit the item to be deducted twice in computing adjusted gross income or taxable income.

(c) *Deductions allowable in computing adjusted gross income.* The deductions specified in section 62(a) for purposes of computing adjusted gross income are:

(1) Deductions allowable under chapter 1 of the Code (other than by part VII (section 211 and following), subchapter B of such chapter) that are attributable to a trade or business carried on by the taxpayer not consisting of services performed as an employee;

(2) [Reserved]

(3) For taxable years beginning after December 31, 1986, deductions allowable under section 162 that consist of expenses paid or incurred by a qualified performing artist (as defined in section 62(b)) in connection with the performance by him or her of services in the performing arts as an employee;

(4) Deductions allowable under part VI as losses from the sale or exchange of property;

(5) Deductions allowable under part VI, section 212, or section 611 that are attributable to property held for the production of rents or royalties;

(6) Deductions for depreciation or depletion allowable under sections 167 or 611 to a life tenant of property or to an income beneficiary of property held in trust or to an heir, legatee, or devisee of an estate;

(7) Deductions allowed by section 404 for contributions on behalf of a self-employed individual;

(8) Deductions allowed by section 219 for contributions to an individual retirement account described in section 408(a), or for an individual retirement annuity described in section 408(b);

(9) Deductions allowed by section 402(e)(3) with respect to a lump-sum distribution;

(10) For taxable years beginning after December 31, 1972, deductions allowed by section 165 for losses incurred in any transaction entered into for profit though not connected with a trade or business, to the extent that such losses include amounts forfeited to a bank, mutual savings bank, savings and loan association, building and loan association, cooperative bank or homestead